UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/SR.432
12 January 1998

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Seventeenth session

SUMMARY RECORD OF THE 432nd MEETING*

Held at the Palais des Nations, Geneva,
on Thursday, 8 January 1998, at 10 a.m.

Chairperson: Miss MASON

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* No summary records were issued for the 429th, 430th and 431st meetings.

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GE.98-15019 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4)

Initial report of the Libyan Arab Jamahiriya (CRC/C/28/Add.6; HRI/CORE/1/Add.77; CRC/C/Q/LIBYA/1)

1. At the invitation of the Chairperson, Mr. Quateen, Mr. Rahil, Mr. Mohsin, Mrs. El Shelli, Mr. Al Awad and Mr. Omar (Libyan Arab Jamahiriya) took places at the Committee table.

2. Mr. QUATEEN (Libyan Arab Jamahiriya) said that, in a traditionally close-knit society where nearly 60 per cent of the population was under the age of 17, great value was attached to children's welfare and family cohesion. The Holy Qur'an placed obligations on parents which encompassed all the rights of the child, both before and after birth. The procreation of children was the main purpose of the family unit, and the rights of the child began with the father, who was obliged to choose a suitable mother for his future offspring, give them beautiful names and see to it that they received a good education. Such also was the father's right. Ever solicitous of the child's health and well-being, the Qur'an stipulated, for example, that breastfeeding should last one and a half years.

3. Concerned to ensure that the rights of the child were protected, the Jamahiriya had ratified a Charter on the Rights of Arab Children on 4 May 1986 and had, along with other Arab countries, adopted a Universal Declaration to protect children. It had also ratified the Convention on the Rights of the Child, since the provisions of that instrument were compatible with the Islamic Shariah on which Libyan society was founded.

4. It was to be regretted that the embargo imposed through the United Nations was preventing Libyan children from fully enjoying their essential rights. Eager, nevertheless, to mark its respect for the Committee and to cooperate in the interests of children at home and abroad, the Jamahiriya had submitted its initial report on 23 September 1996 and done its best to provide written replies to the Committee's list of issues.

5. Mrs. MBOI, supported by Mrs. PALME, complimented the Libyan Government on the progress achieved in the fields of health and education. She emphasized, however, that the implementation of the Convention was an ongoing process which required monetary mechanisms as well as the evident political commitment. Further details of national mechanisms for coordinating implementation of the Covenant would thus be appreciated. She would like to know whether there was an integrated approach to the collection of indicators and disaggregated data on the status of all children.

6. Mrs. OUEDRAGO, having commended the compilers of the report (CRC/C/28/Add.6) on their efforts to follow the Committee's guidelines on reporting (CRC/C/5), said that it was to be regretted, however, that the report had not sought to analyse practical impediments to the implementation of the relevant legislative provisions. She wondered whether it was to be assumed that none of the legislation conflicted with tradition and that it was

applied without difficulty by the population. Details of the specific roles of the various organizations helping to implement the Convention would also be welcome.

7. Although mention was made in the report of "decisions" of the basic people's congresses, their nature had not been clarified, nor had the specific time schedule of the envisaged "stages of brief duration" (paragraph 11). She would like to know whether any plan of action specifically related to children had been elaborated and what particular legislative provisions had been adopted by the congresses. Although there was a reference in the report to the amendment of existing legislation and regulations "to make them consistent with the social policy guidelines for child welfare" (paragraph 11 (w)), she was surprised that there was no reference to attempts to harmonize legislation with the Convention. Was the Higher Committee for Child Welfare the only non-governmental organization (NGO) to participate in the elaboration of the report and, if so, why had input not been sought from other bodies operating in the human rights field?

8. Mrs. PALME inquired what the situation was of children born out of wedlock.

9. The CHAIRPERSON said that it would be more appropriate to return to that issue at a later stage. She invited the delegation to reply to the Committee's other questions.

10. Mr. QUATEEN (Libyan Arab Jamahiriya) explained that, as in the case of the other international instruments ratified by the Jamahiriya, it was the Ministry of Foreign Affairs which monitored the implementation of the Convention and coordinated the relevant ministries. In the case of the Convention on the Rights of the Child, the main governmental bodies involved were those dealing with social welfare, education, health and youth and sport. Some of those ministries contained units specifically devoted to children's issues, such as the unit dealing with child vaccinations, hygiene and medical care in the Ministry of Health.

11. Libyan society was founded on values which accorded fully with the Convention, with only a few minor exceptions. As for the implementation of domestic legislation reflecting those values, the procedure used was common to all laws, which were either repressive (seeking to punish or sanction), or intended to serve as positive instruments for ensuring the realization of such values. As a result of the Convention being made part and parcel of Libyan law, the rights of the child found their natural place in Libyan society and were implemented through local jurisdiction. Furthermore, humanitarian and child welfare organizations, local and government authorities all had right to monitor implementation of the Convention. His colleagues would be able to provide more detailed answers to some of the other oral questions put to his delegation.

12. Mr. AL AWAD (Libyan Arab Jamahiriya), replying to the question concerning coordination within the State administrative system, said that the Higher Committee for Child Welfare was only one of a number of bodies involved in humanitarian work on behalf of children, but that, as the highest-ranking committee in the State apparatus, it had been entrusted with the task of

coordinating the specialized activities of the various ministries involved in drawing up and implementing plans. The role of people's committees was to assist civil society and the authorities in implementing such plans and programmes; the Higher Committee organized meetings and coordinated work with youth and cultural representatives, and implemented plans and programmes in conjunction with all interested parties. It was a non-governmental body, established on 29 October 1990, and its objectives were similar to those of the Committee on the Rights of the Child, namely, to provide children with a propitious human and natural environment; to cooperate with social organizations in increasing awareness of the importance of the child; to provide children with an appropriate habitat, including toys and play areas; and to encourage social activities. Such popular social activities were regarded as among the most important ones, since they drew on what was deepest in society, thereby reducing the burden on the administration.

13. The Higher Committee provided material and moral assistance to families with children in need. It was also responsible for implementing laws regulating women's work in society, attempting to amend legislation so as to enable women to work less, to spend more time with their children and to have longer maternity leave (three months before birth), thereby ensuring that the family could play its role as the fundamental cell of society. It also constantly sought new independent financing for programmes targeting children, such as the establishment of dispensaries, and was working with a specialized economic unit to set up a bank to finance projects such as children's hospitals, playgrounds and kindergartens. At its last session, on 28 December 1997, it had adopted a new law on the child, codifying all activities in that field.

14. The Higher Committee was neither an NGO in the traditional sense nor a governmental committee. Rather, it was a people's organization that exerted pressure on the Executive yet worked in close cooperation with, rather than in opposition to, the State, a manifestation of an administrative approach based on cooperation and participation by the masses in planning and implementation of all activities of interest to them. A civil non-governmental body with special juridical status and full autonomy, it was empowered to detect failings and loopholes in the State apparatus.

15. Mr. QUATEEN (Libyan Arab Jamahiriya), replying to the question about the legal status of children born out of wedlock, said that, in accordance with Shariah and Islamic legislation, society endeavoured not to impose a burden on such children as a result of their parents' misconduct. In the wake of the French Revolution, Continental law had set forth the legal principle that each individual was alone responsible for his own crimes. Islam, however, had already stated that principle some 12 centuries previously. Thus, offences committed by the father and mother had no repercussions on the children. Libyan society gave such children - few as they were - every opportunity, and tried to provide a healthy environment in which they could grow up to be good citizens.

16. Mrs. KARP said she noted that the documentation submitted to the Committee included an additional statement by the Higher Committee for Child Welfare recommending, inter alia, that the proportion of budgetary resources

allocated to children should be specified and prescribed separately within the framework of the national budget. She asked whether there was any intention of adopting that recommendation.

17. The Libyan system being unique, it was sometimes hard to understand the relationship between the national and local committees and congresses. Were the mother and child welfare services, for instance, the responsibility of the former or of the latter? If they were the responsibility of local authorities, how did those authorities guarantee that children in rural areas had the same access to services as children in urban areas?

18. With regard to the status of the Convention, she asked whether it was cited in courts of law in cases where the best interests of the child arose, and whether it was included in the curriculum of schools and in teacher training, as required under article 42 of the Convention.

19. Lastly, the Libyan delegation had stated that children under 17 years of age comprised about 60 per cent of the population. Under both the Convention and Libyan domestic legislation, persons up to the age of 18 were regarded as children. She wondered, therefore, whether the Libyan statistics on children covered all children up to 18 years of age, or only those up to 17 years of age.

20. Mr. KOLOSOV agreed with Mrs. Karp that it was not clear whether the Libyan statistics on children reflected the Convention's definition of a child. If the Jamahiriya recognized that all persons under 18 years of age were children, he failed to comprehend why its statistics covered only children up to 17 years of age. Were there any plans to bring the system of collecting statistical data into line with the provisions of the Convention and those of Libyan legislation?

21. On the question of the obligation of a State party to protect the rights of all children under its jurisdiction, he noted that, in both the initial report and the written replies it had submitted, the Libyan Government typically referred to the rights of its citizens, rather than to the rights of persons under its jurisdiction. He would like to know whether there were any provisions in that regard, or any plans to bring the Libyan approach into line with the Convention.

22. Lastly, he noted that paragraphs 41 and 42 of the written replies submitted by the Libyan Government referred to the monitoring measures of the Department of Social Welfare. Since worldwide experience had shown that self-monitoring by the implementing authorities seldom led to satisfactory results, he wished to know whether there was any possibility of NGOs participating in monitoring activities.

23. Mrs. MOKHUANE said, with reference to subparagraph 11 (a) of the initial report (CRC/C/28/Add.6) and the pre-screening of couples prior to marriage, that she would like to know whether there was any legislation governing detection of the presence of congenital abnormalities, and, if so, how it was monitored. On subparagraph 11 (g), she asked how the home-based early childhood education programme was monitored, and whether the Ministry of

Education was involved. On subparagraphs 11 (n) and (o), she asked whether any research had been carried out to ascertain whether the naming and renaming of children led to identity problems.

24. Mrs. OUEDRAOGO, having noted that the Libyan Government conceded in its written replies that more needed to be done to disseminate information about the Convention, asked what steps it was taking in that regard.

25. Mrs. MBOI, following up her previous question on indicators, said that the Libyan authorities had achieved impressive results in the fields of health and education. However, as fast as problems were solved in one area, new problems arose in other areas. It was for that reason that she had asked whether the Libyan authorities had developed indicators on children in especially difficult circumstances and on violations of children's rights, and whether they had encountered problems in using those indicators in monitoring exercises and in designing projects and programmes to secure effective implementation of the Convention. What indicators existed, what problems had been encountered, and how effective was the monitoring mechanism?

26. Mr. MOHSIN (Libyan Arab Jamahiriya), replying to the question concerning monitoring of the application of the Convention, said that the Libyan political system could assist all those who wished to ensure that the Convention's provisions were properly applied. The people's congresses were the basic instrument of the political system and, accordingly, the Convention and other laws concerning children had been submitted to them. Thus, each individual man and woman within Libyan society had been able to discuss the Convention, and laws had been adopted to organize its application.

27. Congresses were held every three or four months and, as legislative bodies, they questioned the authorities competent in the various sectors, thereby ensuring that application of the Convention was monitored. At the end of 1997, the General Congress, under whose authority all decisions were taken, had adopted a draft law on the protection of children, organizing the activities of the relevant committees.

28. A question had been asked about possible conflicts between the nation's laws and its traditions. The Jamahiriya adopted no laws that ran counter to the Shariah or to its traditions and values. Consequently, no conflict arose.

29. As to the question of children "born out of wedlock", there seemed to be some confusion concerning the use of the terms "illegitimate", "born out of wedlock" and "born outside the family". All regions of the country had institutions that took care of such children, and they were monitored on a daily and monthly basis.

30. Lastly, the authorities worked to ensure that information on the contents of the Convention was imparted to all teachers, through courses organized annually. Textbooks were also published by the universities, explaining the Convention's various objectives to students in all disciplines.

31. Mr. QUATEEN (Libyan Arab Jamahiriya), replying to the questions about the definition of the child, said that 18 was the age of majority and persons aged 17 were thus minors. No conflict as to interpretation seemed to arise.

Similarly, the distinction between citizens and non-citizens was not applicable in the case of the Libyan Arab Jamahiriya, for foreigners enjoyed all the facilities and services available to Libyan citizens, the only difference in status being that, as non-citizens, they were at an advantage in not having the same obligations as citizens.

32. Mr. RAHIL (Libyan Arab Jamahiriyah) said that, by religious and social tradition, Libyan families were cohesive units and the child was seen as the joy and future of the family. International human rights instruments rightly placed special emphasis on children. His Government endeavoured to create a happy society, and therefore did its utmost to protect the rights of the child.

33. With the cooperation of the Governments of Arab States, as well as of NGOs, the United Nations, the United Nations Population Fund (UNFPA), United Nations Children's Fund (UNICEF), and the World Health Organization (WHO), studies had been made of the situation of the child in society, and on the situation of mothers and children, the findings of which were used in programme planning. The results of those studies could be provided to the Committee if its members so desired. Furthermore, the Government had established a department to develop statistics on all aspects of mother and child care. In addition, it offered special benefits and protections to disabled persons. As the report indicated, his Government favoured breastfeeding; in fact, 71 per cent of Libyan mothers breastfed their babies.

34. Premarital medical examinations were required for both men and women, and medical records mandatorily indicated the existence of a hereditary disease. Efforts were made to discourage marriage between relatives, so as to prevent hereditary problems caused by inbreeding. Few cases of AIDS had been detected in Libya, all among foreign workers.

35. Mr. QUATEEN (Libyan Arab Jamahiriya) said that, once ratified, the Convention had acquired the status of domestic law in Libya and was thus binding on all citizens and bodies, both public and private. The provisions of the Convention took precedence over those of domestic law before the Libyan courts.

36. Mr. AL AWAD (Libyan Arab Jamahiriya) said that individuals were first and foremost responsible for monitoring their own implementation of the Convention. Beyond that, people's committees monitored its implementation at the administrative and technical levels. Governmental bodies monitored the implementation of the Convention in their particular areas. Furthermore, all members of society had the right to join NGOs and express their views freely in the media. His Government was doing its utmost to implement all the provisions of the Convention; with the assistance and encouragement of the Committee, it would surely achieve that goal.

37. Libya endorsed a people-based approach to the matter of monitoring. With the cooperation of the United Nations Development Programme (UNDP), the Higher Committee for Child Welfare was conducting a programme for the

development of human resources for the next century, which involved the identification of indicators to assess the implementation of the rights protected under the Convention and the well-being of children.

38. No Libyan legislative text prevented a family from changing the name of a child after birth. If a child did not like his name, it could be changed at the registry office.

39. There was no contradiction between custom and law because Libyan social laws were based on custom and tradition. Although conflicts might arise in the implementation of legislation, they were never based on the spirit of the law. The Libyan courts endeavored to use the best legislation available. If the provisions of a domestic law provided better protection than did those of an international instrument, a Libyan judge would choose to invoke the domestic law. Children were thus always well protected.

40. Mr. QUATEEN (Libyan Arab Jamahiriya) said that all international instruments ratified by Libya were published in the official bulletin, publicized by the media, and disseminated to all the principal competent governmental bodies. The Department of Education conducted a series of seminars and symposia to instruct teachers and students in the principles embodied in the Convention. In the view of his Government, the successful implementation of the Convention throughout the world would be the crowning achievement of international society.

41. The CHAIRPERSON inquired what steps were taken to ensure that both urban and rural children were informed of their rights and enjoyed equal access to services. It would also be useful to know how local and national authorities coordinated their activities on behalf of children, and what body was responsible for ensuring the decentralization of services, as well as the equal distribution of services at the local and national levels.

42. Mr. MOHSIN (Libyan Arab Jamahiriya) said that his Government was seeking to develop a strategy for the implementation of the provisions of the Convention not as separate principles, but as a unified whole, and to ensure that the rights guaranteed by the Convention were enjoyed equally by all. It was evaluating approaches to the protection of rights at various developmental stages. Although a small child could not be taught his rights under the Convention, for example, his family and teachers could.

43. In his Government's view, there were only two ways to raise the awareness of families and children, through the media, and through the teaching institutions. It was the task of the relevant governmental bodies to ensure the implementation of the Convention; the Department of Education, for instance, was responsible for ensuring that the education-related provisions of the Convention were enforced.

44. For many years, his Government had been endeavouring to distribute economic activities throughout the country, and the provision of medical, psychological and social services had followed. Under the terms of Libyan legislation, services for children were distributed equally throughout all regions.

45. Mrs. OUEDRAOGO said the delegation had indicated that, with a few exceptions, the Convention was entirely compatible with the terms of domestic legislation. She inquired which articles of the Convention were affected by those exceptions, and whether the Government envisaged bringing its laws into line with them.

46. The teaching institutions were an insufficient means of disseminating the principles of the Convention. Although it was essential to inform children of their rights, children themselves lacked the authority to ensure the fulfilment of those rights. Governments must find ways of providing information about the Convention to the whole of civil society. Furthermore, the implementation of the Convention should be seen not as the function of the executive bodies, but rather as a dynamic process involving the whole of society.

47. Mr. KOLOSOV, noting that all States officially promulgated their international obligations, said he agreed with the delegation that teachers were the best means of disseminating the Convention. The Convention contained, however, an innovative feature: it bound States parties to inform both adults and children of its provisions, but few children were aware that their rights were protected at the international level. In his view, the best way of informing them of those rights was to incorporate the Convention into mandatory school and university curricula, and especially into those of the teacher training institutions. Such an approach must be ongoing: children were constantly being born. Manuals should be developed for teachers, and for children of various ages.

48. The CHAIRPERSON inquired whether the Convention had been invoked before the Libyan courts, especially in a case involving the rights of a child.

49. Mrs. KARP suggested that children themselves might be considered a means of disseminating the Convention. In fact, such an approach had many educational benefits, among others the sense it gave children of their own empowerment.

50. Mrs. MOKHUANE asked, once again, how home education was monitored and whether the Department of Education was involved in that process.

51. Mr. QUATEEN (Libyan Arab Jamahiriya) said there was no conflict between the terms of the Convention and those of Libyan domestic legislation: the Convention was law and was enforced accordingly. If a contradiction had existed between the Convention and domestic legislation, Libya would not have chosen to ratify the instrument, even in part.

52. Islam did not recognize the concept of illegitimacy; there was therefore no contradiction or conflict between the terms of the Convention and those of Libyan domestic legislation. Admittedly, different Islamic countries had chosen to interpret the relevant provision in different ways.

53. As for the dissemination of the Convention, its provisions were publicized through the mass media. The revolution in telecommunications meant that people also learned of their rights and the rights of children through,

for example, the Internet and satellite broadcasting. Educational programmes prepared by UNICEF had also been used to generate awareness of the Convention among schoolchildren and their families.

54. He was unable to quote specific cases of the Convention being invoked before the Libyan courts. At all events, judges invariably ascertained that the judgements they handed down were compatible with the provisions of the Convention, since they would otherwise be considered null and void.

55. Mr. MOHSIN (Libyan Arab Jamahiriya) said that education was one of the most important means of publicizing the Convention, particularly during early childhood. It was therefore vital that teachers should be well versed in its contents, a requirement that was reflected in the teacher training curricula. Audio-visual media and round tables were also used for the purposes of dissemination. Special books and programmes designed for family use provided information about the Convention and explained its contents. Satellite television programmes for children were broadcast for three hours a day and often involved direct interactive dialogue with children in their homes.

56. Mr. AL AWAD (Libyan Arab Jamahiriya) said that the Jamahiriya provided decentralized services in all sectors such as education, health and leisure activities. Centra'ized and decentralized planning was undertaken at the highest legislative level, that of the General People's Congress, and representatives at the regional level put it into effect.

57. There was vigorous interaction between the central and local authorities and between urban and rural areas. The local authorities were required to provide evidence that services were reaching all sectors of the population. The people's congresses took steps to ascertain that all services were available, even in the smallest villages. Moreover, thanks to the policy of ensuring a balance between the regions, the standard of living in rural areas was comparable to that in urban areas and the safeguarding of children's rights in rural areas presented no great problem.

58. Any child who had a problem at school could report it to his or her teacher or parents and it would be investigated. Where a family was known to ill-treat a child, the case could be reported to a social centre and the authorities would carry out an inquiry.

59. With regard to illegitimate children, some Western societies seemed to have problems understanding the situation: Libyan society did not reject such children but the basic principle was that the family was the place for procreation. Human nature being what it was, however, children were born out of wedlock but they nonetheless enjoyed full rights in the Jamahiriya. They could either be entrusted to a family or looked after in institutions.

60. The CHAIRPERSON invited questions and comments from members of the Committee on the "Definition of the child" (article 1) and "General Principles" (articles 2, 3, 6 and 12).

61. Mrs. OUEDRAOGO asked why the statutory minimum age for marriage was 20 years of age when the statutory age of majority was 18. Persons under 20 years of age who wished to marry required the authorization of a

court and the consent of their guardian or parents, even though they might already have reached the age of majority. The minimum age for marriage was 15 years. She wondered how compliance with that law was monitored and enforced and thought that there might be a clash with Islamic tradition which generally authorized early marriage, particularly of girls.

62. The report did not indicate whether or not there was a minimum age of sexual consent but, since it stated that sexual acts with a child under 14 years of age were punishable, the age of consent was presumably 14.

63. She gathered that the minimum age for voluntary military recruitment was as low as 14 years. Was there a particular context in which recruitment at such a low age was admissible?

64. Mr. QUATEEN (Libyan Arab Jamahiriya) confirmed that 20 was the minimum age for the independent contraction of marriage. Between the ages of 15 and 20, marriage could be authorized by a court on condition that there was some pressing reason therefor.

65. Mr. AL AWAD (Libyan Arab Jamahiriya) said that 19 was the minimum age for military service, but persons who had not yet completed their studies could postpone military service until the age of 26.

66. Mrs. KARP welcomed the idea of children's congresses for decision-making in primary schools as a very interesting way of empowering children. Were such bodies restricted to primary schools? Could children also express their views on disciplinary measures in those forums? She also asked whether children were encouraged to express their views in the family environment and whether they could hope to have them respected.

67. With regard to the right to life, survival and development, the maximum sentence for acts of violence against children under article 397 of the Criminal Code was eight years' imprisonment. She wondered whether such a relatively lenient sentence would be passed if parental violence resulted in the death of the child.

68. Mrs. PALME asked the delegation to clarify the position in the Jamahiriya with regard to the age of criminal responsibility.

69. Mrs. MBOI asked whether a person lost his or her status as a minor on marriage. For example, if a girl married at the age of 16 years, would she automatically lose her rights as a child? Did she require parental consent for medical consultations or did the privilege of granting consent pass to her husband?

70. She wondered whether the best interests of the child were served in cases where a court was empowered to authorize marriage at an earlier age than 20 years if it deemed such a step beneficial or necessary and the guardian's approval was secured. She was thinking in particular of the case of a girl who did not wish to marry.

71. Mr. KOLOSOV stressed that article 2 of the Convention prohibited all forms of discrimination among children on the grounds of the circumstances of their birth. The word "illegitimate" should not exist in any legislation or administrative instructions.

72. Mrs. OUEDRAOGO, noting that equality between men and women was stressed in many Libyan legal instruments, asked whether the status of women in practice lived up to their status under the law, for example in traditional families and in the armed forces. Did women genuinely share in decision-making and were women's rights championed by NGOs? To what extent had the Jamahiriya implemented the recommendations of the Fourth World Conference on Women?

73. Mrs. MOKHUANE asked for clarification regarding the age of discernment, especially in the light of the reference in the written replies to article 150 of the Penal Code which applied to a minor of between 14 and 18 years of age who was not endowed with the capacity of discernment.

74. Mr. QUATEEN (Libyan Arab Jamahiriya) said that a child under the age of seven years was, in all cases, considered to be without the capacity of discernment. From the ages of 7 to 17 years, a child was considered to have powers of discernment. As for the law pertaining to those categories, any financial and legal consequences of acts by a child under the age of discernment could on no account be imputed to the child. Beyond the age of discernment, the consequences of such acts were legally valid if their effects were beneficial to the child but invalid if they were harmful. The consequences of neutral behaviour could be invalidated by a court in the interests of the child. It was only on reaching the age of majority that a young person was held fully responsible for his or her acts.

75. Marriage at the age of 15 years did not confer majority. The legislation relating to the rights of minors applied equally to any married person under the age of majority.

The meeting rose at 1 p.m.